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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/666,009	09/19/2000	Daniel R. Ansley	BTI 0200	5080

7590 03/11/2002

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EXAMINER

JAMROZ, MARGARET E

ART UNIT PAPER NUMBER

1644

DATE MAILED: 03/11/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.



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09/666,009

9/19/2000

Anstey, Daniel R.

BT1-0200

EXAMINER

Jamroz, Margaret

ART UNIT

PAPER

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Commissioner of Patents and Trademarks

1. The timely submission under 37 CFR 1.129(a) filed on 2/19/2002 is not fully responsive to the prior Office action because applicant did not fully elect according to the species requirement set forth in Paper No. 2, mailed 11/20/01. Since the submission appears to be a bona fide attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

2. Applicant elected Group IV (claims 1-4 and 6-8).

3. Applicant was further required under 35 USC 121(1) to elect a single disclosed species to which the claims would be restricted if no generic claim is finally held to be allowable and (2) to list all claims readable thereon including those subsequently added.

Applicant was further required to elect a specific use of a specific composition of matter (such as IL-1 OR TNF-alpha) with a specific molecular weight (such as 60,000 daltons OR 55,000 daltons) to stimulate the disease fighting systems of a specific bird (such as chicken) against a challenge by a specific bacteria (such as *Pasturella multocida*).

The species are differ with respect to the specific composition of matter, specific molecular weight, the animal treated, and the etiology of the disease; therefore, the species are patentably distinct.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either

instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

4. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Megan Jamroz whose telephone number is (703) 308-8365. The examiner can normally be reached Monday through Friday from 8:00 AM to 4:30 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Margaret (Megan) Jamroz, Ph.D.
Patent Examiner
Technology Center 1600
March 7, 2002

PHILLIP GAMBEL, PH.D
PRIMARY EXAMINER
TECH CENTER 1600
3/7/02